The HIPAA Implementation Newsletter
Issue #49 – Friday, January 17, 2003
| Status | Security | Privacy | Applications | Internet | Enforcement | Camera Phones |
Web format with links at http://lpf.com/hipaa

We have just returned from a three week trip to Burma and Cambodia.
+ More at: http://lpf.com/adventure/burma-cambodia

Status: Security Regulations

We expected the final security regulations on December 27, but … More fine tuning and
then more review and then … It is certainly better to get the regulations close to correct
the first time than to issue them and then revise them. And, it is critical to assure that
regulations do not create unforeseen security problems – that has happened too often in
the past with proprietary security systems that have not had the benefit of widespread
review.

The latest information: "The Final Rules on the 'HIPAA Security Standards' and
'Modification to Standards for Electronic Transactions and Code Sets' were received by
the White House Office of Management & Budget, Office of Information and Regulatory
Affairs (OMB/OIRA) [January 14] for review. Final clearance takes between two weeks
and 90 days, at which point, the final version of the regulations are placed on display at
the Government Printing Office (GPO) in Washington, DC, and then published in the
Federal Register." In the meantime, focus on privacy and apply "good judgment."
+ More at: http://www.hipaadvisory.com/news/

Security: A Broader Base

"A new effort is underway to facilitate the identification and implementation of best
practices in health care for information security requirements. To this end, the Security
Healthcare Certification and Accreditation Workgroup has been convened and will bring
together a wide array of key stakeholders from the public and private sectors in hopes of
developing a more uniform approach to security assessments. The Workgroup held its
first meeting earlier this month to identify a 2003 work plan, including the review of the
recently published draft security guidelines by the National Institute of Standards and
Technology (NIST) (Issue 42) and the new Security Rule as authorized by the Health
Insurance Portability and Accountability Act (HIPAA) of 1996. …
"The Workgroup also is intended to serve as a resource for the health care community
by developing white papers, drafting crosswalks, and participating in educational
programs. Ultimately, the Workgroup hopes to promulgate a common set of health care
security standards that will cover security policies, procedures, controls, and auditing
practices.… "The Workgroup will provide NIST feedback as to the documents
applicability to the health care sector.
"To sign up as an interested party, please log on to
http://webapps.urac.org/committeesite and follow the sign-up instructions."
+ More at: http://www.urac.org/release.asp?releaseid=164

Privacy: Healthcare and Media Relationships

"In a little more than three months, there will be a significant change in the way health care providers interact with public relations firms that market them and media representatives who report news about their patients. …

"Maureen Demarest Murray, a Smith Moore attorney in Greensboro who advises health care providers, says … At least at first, the Centers for Medicare and Medicaid Services will most likely exercise a gradual enforcement of only the most egregious offenses, to give providers time to get acclimated to the new regulation. "Somebody trying to comply won't get slapped with a fine". …

Moses Cone Health Systems spokesman Doug Allred says, "Under the new policy, patients admitted to Moses Cone will be asked to complete a Notice of Privacy Practices form, which will inform them in what way their health information will be used, Allred says. There will be a box to check indicating whether they want their name listed on the directory. If they indicate that they do not want their name listed on the directory, the media will not be able to get any information about their condition or even whether they are a patient. …

"Another change will be in how reporters get names of patients to interview for feature stories. In the past, the media called the wards to get names; under HIPAA, they will have to go through the treating physician, who will get written permission from the patient to release his or her name. …

Billing Applications: Compliance

"Health care providers' use of billing software is no guarantee that they will be in compliance with the HIPAA transactions and code sets rule, Modern Physician reports. Despite vendors' claims that their products are HIPAA compliant, many health care organizations must modify the products to satisfy the administrative simplification rule's requirements.

"Because vendors are not covered under HIPAA, their products are not required to comply with the federal regulation. "Make no mistake; the responsibility of HIPAA compliance rests squarely on the shoulders of providers," according to the Web site of vendor Health Data Services. "The truth is the vendor has no legal responsibility to assure your practice is compliant and because HIPAA is so broad in scope, any software application—in and of itself—can't provide a solution."

"Providers, particularly small practices without their own information technology departments, are finding that they must customize billing software to achieve HIPAA compliance, Modern Physician reports. To do so, providers must ensure the software, regardless of how well it works, captures the necessary data as stated in the transactions and code sets rule.

"It's entirely caveat emptor," said Dr. David Kibbe, director of health IT for the American Academy of Family Physicians. … 'The key [HIPAA] bottleneck for the practice is the practice management billing system'"

Practice Management Systems: Compliance

HIPAA.org has published a directory to assist medical practices locate important information, supplied by practice management and billing systems vendors, on HIPAA transactions and code sets implementation, testing, and certification. A good place to start checking on your vendor including a contact that may be able to provide additional

information.
+ More at: http://www.hipaa.org/pmsdirectory/

Practice Management Systems: Open Source

"The American Academy of Family Physicians this week (January 16, 2003) is expected to approve a plan to develop open-source electronic medical records, a move that could provide physicians with low-cost, Web-based patient records, the Wall Street Journal reports. …

The open-source software will run on physicians' existing computers and won't have a license fee, the Journal reports. The records will be stored on a secure Internet site, where they can be shared with patients and other physicians. … several issues remain surrounding the systems, such as what medical support tools to choose for the software, who will fix software problems if something goes wrong and whether patients or physicians will have ultimate control of the records

C9MMENTARY: the concept sounds good but count us among the skeptics. The article notes the operational issues. The security issues are complex and this will give hackers a target only slightly less inviting than Microsoft Outlook. The real problems are in what George Gilder calls the "warmware," the people who use the system from the doctors' offices, to their trusted interfaces and their patients. Our advice: do not let the possibility of such a system delay anything you are doing to be ready for HIPAA
+ More at:
http://www.ihealthbeat.org/members/basecontent.asp?oldcoll=3&contentid=24424&collectionid=547&program=1&contentarea=113745

Internet: Physician Reimbursement II

"An online consultation pilot project helped reduce health care spending and improved communication between patients and physicians, a team of researchers from the University of California-Berkeley and Stanford University found. Based on the project's final results, health plans in Northern California and Connecticut will expand the project, which reimbursed physicians $25 per online consultation

"The online service helped insurers reduce spending on office-based visits by $1.92 per member per month. Total health care claims dropped by more than $3 per member per month for those using the Web visit program.

"In addition, more than half of all patients and physicians participating in the online consultation pilot said Web visits were more convenient than office visits or phone calls in some instances. Half of all patients who used the service reported missing less work because of illness, and 45% said they were less likely to have needed an office visit. More than three-quarters of patients said their online consultation took less than 10 minutes, "substantially less" time than the average office visit, the study found.

"Physicians' receptiveness to online consultations increased among doctors who received a large volume of phone messages. Eighty percent of physicians who received 30 or more messages daily said online consultations were easy to incorporate into their daily routine. More than two-thirds of physicians with more than 30 phone messages preferred online consultations to office visits for non-urgent situations; 56% of physicians

overall said the same."
+ More at:
http://www.ihealthbeat.org/members/basecontent.asp?oldcoll=3&program=1&contentid=24420&collectionid=547&contentarea=113700&datevalue=

Marketplace will help to enforce HIPAA

"The marketplace can be a powerful means of enforcing regulations, especially when the regulations affect other businesses and the general public in such large measure as HIPAA's administrative simplification rules do. The following list includes some of the major factors that could play significant roles in enforcement of HIPAA:

--Payment delays or denials may result when providers have not changed the way they submit claims, but the health plans they deal with have done made appropriate changes.

--Changes in ways that eligibility verification, authorization for services, claims status inquiries, and remittance advice are made available may encourage a provider to either adopt electronic transactions or risk delays in obtaining this information—potentially impacting staff productivity, claims denial, and cash flow.

--Business associates who do not have a business associate agreement with the provider may refuse to provide service because they fear downstream liability for exchanging information with a non-compliant provider.

--Disgruntled former or current members of the workforce may "test" the security (or lack thereof) of the provider's information systems.

--Well-intentioned members of the workforce may have a false sense of security because of HIPAA, and not realize that the provider is at risk because not all security standards have been met.

--A lack of privacy policies and procedures may result in breaches of confidentiality or denial of individual privacy rights, prompting a patient to file a formal complaint with the provider and/or the Secretary of HHS, or bring suit against the provider.

--Licensing and accrediting organizations may take a cue from HIPAA. JCAHO has already announced that it will place greater emphasis on security and privacy.

--Loss of competitive advantage may result from being slow to adopt the standards or to take advantage of opportunities created by HIPAA.

"…adapted from book, HIPAA Made Simple: A Guide to Fast-Tracking Compliance, Second Edition. …Go to http://www.hcmarketplace.com/Prod.cfm?id=1402 for more information.

Security: Camera Phones in Locker-Rooms

"Just when we think we have the problem defined – long before we get to solving it – we discover that there is something we have overlooked or something new. Will we have to ban cell phones in doctors' offices and hospitals?

"Warning: use of camera-equipped mobile phones could be hazardous to your health. That's the message going out from at least one chain of health clubs in Hong Kong, where a new generation of cell phones that can take and transmit video and still photos is raising concerns over a new crop of privacy-related issues.

"Physical, which operates nine gyms in the former British colony, recently posted signs in its Hong Kong facilities forbidding the use of mobile phones in locker rooms. "Some of these phones can be used as cameras. If someone uses a phone this way and takes a photo and puts it on the Internet, it's not very good for our members and their privacy."

"Analysts said the new policy at Physical is one of the first cases they have heard concerning a new generation of phones that are expected to make up a growing percentage of new handset sales in the years ahead. 'I wouldn't say the privacy issues are new ones, but it's a matter of degree because these technologies are becoming easier to use,' said Ian Sanders, managing director of the telecoms advisory practice at PricewaterhouseCoopers."

+ More at: http://asia.cnn.com/2003/TECH/ptech/01/14/phone.cams.reut/

Conferences

THE SIXTH NATIONAL HIPAA SUMMIT The Leading Forum on Healthcare Privacy, Confidentiality, Data Security & HIPAA Compliance March 26 - 28, 2003 Washington DC More information and links to presentations at past conferences: http://www.hipaasummit.com/

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